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ABSTRACT

In addressing the problem of drugs, Reagan Administration efforts focus on both the supply and the demand of drugs. One problem, the diversion of legal drugs into the illegal market, can be accomplished by pharmacists, drug manufacturers and distributors, or by forged or fraudulent prescriptions. Pharmacists can combat this problem by self-policing and by providing drug education to the public. The federal government's efforts to curb the supply of illegal drugs have involved the Drug Enforcement Administration, the Organized Crime Drug Enforcement Task Forces, United States Attorneys, the Federal Bureau of Investigation, and at the international level, the Central Intelligence Agency, United States Customs, and the Coast Guard. Drug misuse is an especially serious problem in schools. In New York, the Patchogue-Medford Board of Education requires probationary teachers to take a drug test as a condition of tenure. Teachers who have challenged this requirement as a violation of the Fourth Amendment have been supported by lower New York state courts. The United States Department of Justice, however, views freedom from drugs as a valid condition of employment for school teachers. Drug testing has been upheld when applied to race-track jockeys, prison guards, transportation workers, and to others whose jobs may impact public safety. Teachers, as role models for students, must present drug-free examples for students to follow, and schools must take a leadership role in the fight against drugs. (NB)

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CHARLES W. HARTMAN MEMORIAL LECTURE

DELIVERED BY

THE HONORABLE EDWIN MEESE III
ATTORNEY GENERAL OF THE UNITED STATES

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THE UNIVERSITY OF MISSISSIPPI

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The past Hartman Lecturers have included men of medicine whose discoveries have made life richer for millions of people when those discoveries are used as their inventors intended. But as you know, I, as a lawman, am here to address a problem that has not helped, but ruined millions of lives and threatens to tear apart the very fabric of our society. I am here to discuss with you the problems of illegal drugs.

The drug problem, as you well know, has two sides: one is the supply side, the other, the demand side. Both sides are criminal: using drugs, as well as pushing them, is an illegal act. Furthermore, one of the sad lessons of law enforcement experience in the field of drugs is that as long as there is demand, some supply will get through. Therefore, the efforts of the Reagan Administration now focus on the demand as well as the supply of drugs.

As my colleague Jack Lawn, head of the Drug Enforcement Administration, has indicated, even an hermetic sealing of the U.S. borders would not eliminate our drug problem, partly because drug users would simply shift to prescription drugs and makeshift laboratories within the U.S. That is why I would like to devote some of my remarks here this afternoon to the problem of abuse of <u>legal</u> drugs, a problem that faces the noble pharmaceutical profession in particular.

Others present will excuse me, then, if I take a moment to speak directly to the many pharmacists in the audience.

You have given your lives to restoring the health and relieving the suffering of mankind through the scientific preparation and compounding of selected natural and synthetic substances for treatment of the human body. Yours is a noble undertaking.

It is of understandable concern to your profession, and to all Americans, then, when drugs legitimately manufactured to serve the good of mankind are diverted from their legal uses to illegal markets where, misused, they cause a wasting of the human body and the human potential.

Among the misdirected legitimate pharmaceuticals are, of course, organic drugs derived from plants, such as cocaine, morphine, and codeine, as well as synthetic drugs produced solely from chemicals. These synthetics include narcotics, stimulants, depressants, and sedative hypnotics with common examples of each being -- and, as pharmacists, you will know more about this than I do -- amphetamines, secobarbital and diazepam, respectively.

As I expect you know also, approximately one-fifth of all prescription drugs available in the United States are subject to the requirements of the Controlled Substances Act because their abuse can result in addiction, compulsion, or personal and social injury.

Diversion of these controlled substances into illicit markets is in large part driven, as is most drug trafficking, by the promise of great financial gain. Approximately 20-25 billion dosage units of controlled substances are legitimately produced in the United States each year. Of this total, millions in dosage units are diverted to the illicit market. This occurs in several ways: through casual or indiscriminate prescribing and dispensing habits of physicians and pharmacists, as well as through outright illegal sales by registrants, shipment thefts and losses, computer fraud, sloppy drug security, manufacturer/distributor diversion, excessive uncontrolled sales, and most recently, elaborate conspiracies by well-organized and well-financed groups that operate behind a veil of medical legitimacy.

And although the substances involved in these diversions have important medical uses, they are nonetheless narcotics, stimulants, and depressants of great potency that command prices in the illicit drug market hundreds of times greater than normal prescription prices. For example, a single tablet of the powerful narcotic Dilaudid, which costs approximately thirty cents at a pharmacy, can be sold in the illicit market for as much as $75.

Given the purity and nature of legitimately manufactured pharmaceuticals, it is not difficult to determine why these drugs are in such demand.

The abuse of pharmaceutical drugs is even greater than the use of cocaine in the United States. Considering the fact that cocaine use is the fastest-growing form of drug abuse in this country, this is a startling fact, and one of which you must all be aware. Based on estimates from the 1985 National Household Survey on Drug Abuse, there are approximately 5.8 million people currently using cocaine, compared to 7.1 million currently abusing prescription drugs.

Many of the abusers of prescription drugs also use illicit drugs. But an estimated 1.4 million people abuse only prescription drugs. So, you see, we are dealing with no small problem. Particularly so considering the well documented severity of adverse health consequences that may result from such abuse.

Since 1980, more than 50 percent of emergency room admissions reported by the Drug Abuse Warning Network (DAWN) involved abuse of licit, valid prescription drugs. (DAWN is the primary system for measuring drug-related injuries and deaths in the U.S.) Of the top 20 controlled drugs reported to DAWN by emergency rooms and medical examiners, 15 are legally produced substances normally obtained through prescription.

Now, the question that immediately comes to mind is -- where do these diversions occur? And at least a partial answer, from the General Accounting Office, is that two percent of the registered practitioners account for the diversion of millions of

dosage units of controlled substances. So you see, very few of your profession are implicated -- but those few can do great harm.

In 1984, the Controlled Substances Act was changed to give the Drug Enforcement Administration authority to revoke the registrations of public health professionals. In 1986, the first full year in which the statute was operational, DEA revoked a total of 509 registrations, all for activities related to controlled substances diversion. While the majority of these cases involved doctors, not pharmacists, still, the American Pharmaceutical Association reported 345 license suspensions and 184 license revocations in 1985. Not all of these actions necessarily are for diversions, but it is probably fair to say that the great preponderance are.

Nonetheless, practitioners are not the only culprits. Over the past two years, DEA has noticed a trend at the manufacturer/distributor level to ease internal controls designed to prevent diversion of their products -- laxity in security, failure to monitor orders and excessive sales, and computer fraud.

Another type of diversion of considerable magnitude involves the processing of forged or otherwise fraudulent prescriptions. I'm thinking particularly of the doctor who fraudulently writes a stack of prescriptions for controlled substances, more than could ever be justified by normal practice. These prescriptions, of

course, are no good unless filled -- and that, obviously, requires the acquiescence and participation of a pharmacist.

Now, certainly, the vast majority of pharmacists are men and women of honesty and integrity, fully committed to the noble ideals of their profession. And when an unwholesome few enter upon or acquiesce in illicit dealings it is, I know, a source of great pain and embarrassment to you.

One of the things that sets a profession apart from other vocations is the stringent code of excellence, integrity and professionalism that guides its members, and which, importantly, the members enforce themselves.

It is therefore, not only a duty of law, but a matter of professional pride and integrity, that pharmacists take responsibility for questioning suspicious prescriptions. Your professional organizations, I know, have a great interest in getting this message across to all their members. And we in the Department of Justice, especially the Drug Enforcement Administration, stand ready to work with you to safeguard the integrity of the prescription process.

I am proud of the leadership that this Administration has shown in tackling the problem of the illegal sale and use of drugs. But, obviously, any lasting success will depend on the support of the American people, and not least the leadership of responsible health care professionals such as our nation's pharmacists. Your various activities in the area of self-

policing and in educating the public about right and wrong uses of your products make a significant contribution.

And we are making progress. For example, the DAWN data system reports that between 1980 and 1985, actual emergency room admissions caused by unlawfully obtained prescription drugs declined by 26 percent (down nearly 34,000 mentions). This suggests big gains in reducing diversion and abuse of legitimate controlled substances. Although many factors contributed to this reduction, most is a direct result of law enforcement actions, particularly for methaqualone, pentazocine (known as "T's" and "Blues" on the street), barbiturates, and amphetamine and methamphetamine products. Nonetheless, the harsh reality remains: nearly 54 percent of the DAWN emergency room admissions in 1985 were for abuse of prescription drugs. And, sadly, abuse of certain licit drugs has, in fact, increased in recent years. So, although we have made progress, we must continue and enhance our control efforts.

Now, there is another quality that I call on you, as members of a distinguished profession, to reflect upon -- and that is leadership. As pharmacists you hold a place of respect and authority in your communities. Others will respect your knowledge and training, your commitment to the welfare of others, and your high standards of conduct. In short, you will serve as an example to others.

I am, therefore, delighted to see encouraging activity on the part of some pharmacists, pharmacy chains, and drug manufacturers to promote drug awareness and education among the general public, and particularly among young people and their parents. The education campaigns undertaken by the Peoples, Dart and Giant drugstore chains come to mind, and there are others. This is good leadership.

Today, I call on all pharmacists, and, indeed, on all health care professionals to join the campaign against drug abuse and illicit drug trafficking. We need your help.

Now let me take a moment and describe briefly what we have been otherwise doing to curb the supply of the other type of abused drugs, the ones that are outright illegal, as distinct from the ones that can be legally and properly dispensed in your stores.

We have many programs in place for eradicating and interdicting illegal narcotics, and for catching those who purvey them. To take a few examples, there is the Drug Enforcement Administration, which seized almost 27,000 kilograms of cocaine in 1986 -- that's an increase of more than 50 percent over the previous year -- and made almost 13,000 arrests in the two gravest categories of drug offenses.

Then there is the work of the Organized Crime Drug Enforcement Task Forces, a network of 13 regional task forces with a mandate to "identify, investigate and prosecute members of

high-level drug trafficking enterprises and to destroy these organizations."

In 1986 alone, the work of the Organized Crime Drug Enforcement Task Forces around the country resulted in the indictment of more than 4,300 defendants, leading to some two thousand convictions. Almost $76 million in cash and $96 million in property were seized. And $14.6 million in cash and $17.5 million in property were forfeited.

Then we must add to these outstanding efforts the equally fine work of the U.S. Attorneys and the FBI, and, on the international scene, the CIA, U.S. Customs, and Coast Guard, and the various officials charged with drug-related matters in our embassies around the world.

But we have also come to realize the importance of the demand side. That is why President Reagan recently expanded the National Drug Enforcement Policy Board, so as to include all the Cabinet secretaries. Further, and unlike its predecessor, the reorganized board will also include the Secretaries of Education, Energy, Labor, Housing and Urban Development, the Interior, and Agriculture.

We recognize that the drug problem affects virtually every aspect of our national life, and the reorganized board will reflect this recognition. Every Cabinet secretary will have the chance to make his contribution.

My esteemed Cabinet colleague, Education Secretary Bill Bennett, has been hard at work generating ideas for combatting drugs in the schools. His pamphlet, entitled "What Works: Schools Without Drugs," is a very practical manual, and has received warm support of a sort that very rarely greets government studies.

Secretary Bennett's time has been well spent. Few aspects of the drug problem are more frightening, or bode worse for the future of our nation, than the fact that our kids are not safe from the so-called drug culture in their schools. Our schools are supposed to be the places where the factual knowledge, literary richness, and traditional values of a civilization are passed on to its next generation. How can this take place when deals in coke or pot are taking place across the street, or even, in some cases, in the school halls themselves?

This problem shows its true importance when considered in light of the role of education in a democratic society. George Washington, in arguing for what he called "institutions for the general diffusion of knowledge," made this argument: "In proportion as the structure of government gives force to public opinion, it is essential that public opinion should be enlightened."

And Thomas Jefferson also knew and appreciated the connection between good education and a good polity: "If a

nation expects to be ignorant and free, in a state of civilization, it expects what never was and never will be."

But how can education carry out the lofty public mission the Founders envisioned for it when, in spite of recent trends away from drug use by adolescents, 58 percent of high school seniors admit to some contact with illegal drugs, and many of the kids in that group are regular users of one drug or another? The answer is: not very well.

That figure -- that 58 percent of high school seniors have experimented with illegal drugs -- comes from the latest annual report from the National Institute on Drug Abuse. Actually, that report, which dealt with 1986 statistics, offers some encouragement, but it sounds a warning as well. On the encouraging side, over-all drug use by high school seniors resumed the downward trend that it had been on for six years. Figures for 1985 showed a halt in that trend, provoking fears that adolescent drug use was again on the increase. The 1986 numbers show that this is not so.

On the other hand, drug use is still far too prevalent among American high-school students. And use of cocaine by teenagers shows no sign of abating. We can only hope that the 1986 figures reflect the practices that prevailed before the tragic death of Len Bias, and that since that time, teenagers have wised up a bit. When this year's figures are analyzed, we will know.

The reasons I am focusing today on the drug problem as it applies to schools are several. One I have already mentioned: that schools, which are supposed to build up the mind and character of a young person, are being invaded by these substances that instead tear down young minds and characters.

Another reason has to do with example. Schools impart knowledge and character not only by direct instruction, but by providing examples -- role models, some might say. The kind of future citizen our schools produce depends in large measure on the values and ethics that teachers embody and transmit to our young people.

In that regard, it gives me great pleasure to announce an amicus brief that the Department of Justice filed just this month in the Court of Appeals of the State of New York, which is that state's highest court.

The case concerns the Board of Education of the Patchogue-Medford Free School District, an agency of the state government of New York. The Patchogue-Medford Board of Education requires probationary teachers to take a drug test as a condition of tenure. The Patchogue-Medford Congress of Teachers is challenging this requirement on the grounds that it violates the Fourth Amendment.

Let me offer a bit of background here. The Fourth Amendment, as you know, prohibits "unreasonable searches and seizures." Recent case-law on this amendment has hinged on the

question of whether there has been a violation of a "reasonable expectation of privacy."

Now, employers, including governmental employers, have a legitimate right to impose conditions that assure fitness for duty. To take just one example, all individuals seeking employment with the federal government must submit to some form of background investigation, which would indeed be intrusive if it were imposed randomly on citizens.

In the case of teachers, the transmission of values and ethics, by example as well as by precept, is an important part of their professional duty. Thus, freedom from drugs is very much a fitness-for-duty issue for them.

As the Supreme Court stated in a 1984 case, United States v. Jacobsen, the Fourth Amendment protects an individual's "expectation of privacy that society is prepared to consider reasonable." After all, the framers of the Bill of Rights were careful to specify "unreasonable search and seizure." We should all be able to agree that the taking of illegal drugs is not an exercise of legitimate privacy under the Fourth Amendment. And as for drug tests, I put it to you that the need for drug-free schools, combined with the normal right of an employer to set conditions for employment, makes the Patchogue-Medford School District's drug test eminently reasonable.

The teachers in Patchogue have been supported by lower New York State courts, but at the same time, federal appeals courts

have ruled that race-track jockeys and prison guards may be subjected to random drug testing, in view of the nature of their professions. As our brief puts it: "It would seem that the State's interest in keeping drugs out of schools is at least as great." That seems to me a cuttingly understated way of expressing the relative importance of teachers and jockeys. (I say that with all due deference to the noble art of horsemanship.)

We in the Department of Justice view freedom from drugs as a valid condition of employment for school teachers. Drug testing has been upheld when applied to transportation workers and others whose jobs have a direct effect on public safety. And it seems to me almost an insult to teachers to maintain that their jobs are any less important.

To be sure, a railroad engineer who uses drugs directly endangers the lives of his passengers. But can one say that drug use by a teacher is any less dangerous, even though its effect may be less immediate?

We know that drug use is often fatal. We also know that, even when it is not directly fatal, it can make a ruin out of the lives of those who fall into it. We know furthermore that to a kid hesitating over drugs, and perhaps under some nefarious peer pressure to experiment with them, the example of a drug-using teacher might be just the thing to put him over the barrier and

into to the squalid, self-destructive, dead-end world of drug use.

To quote once more from our brief:

> If one child's life is ruined by drugs, that can be fully as great a tragedy as a death or injury in a train or bus accident. From the standpoint of the nation's future, teachers hold one of the most important jobs in our society, and the need to keep that job free of drug use could not be greater.

Let's take a step back from the Patchogue case and look at the issue in a broader context. The issue before us is that of education, example, and leadership. Our educational system must actively teach students that drugs are wrong, and why. Schools must furnish students with multiple examples of individuals leading drug-free lives, and who are glad to be doing so. They must show, by precept and example, that leadership and chemical dependence simply don't mix.

Furthermore, schools must take a leadership role in the over-all struggle against drugs. Not, to be sure, in law enforcement: that's what police, courts, and agencies such as the FBI and the DEA are for. But, as institutions that are in many ways custodians of our values and our civilization, they have a duty to exemplify the best of American citizenship. This duty falls most obviously to our public schools; yet it can be shared as well by the private and religious schools that have made such

superb contributions to the education of American citizens throughout our history.

There is an old Persian proverb that goes: "If the teacher be corrupt, the world will be corrupt." And the old Persians should know: when their empire, once so powerful, was attacked by the growing power of the new Islamic religion in the seventh century, it fell like a house of cards. It couldn't stand and resist. It had lost its internal strength.

In a democracy like ours, leadership is not something that can be left to an elite or a distinct sector of society. No: even if drugs were medically safe, which of course they are not, it would not be right in a system such as ours to indulge a life of chemically induced escape, and leave the tasks of social and political leadership to others.

James Madison, often called the father of the Constitution whose Bicentennial we celebrate this year, left us this challenge: there must be, he said, "sufficient virtue among men for self-government."

Do the men and women of America possess "sufficient virtue for self-government"? I think the answer is a resounding yes, but if we do not beat back the tide of drugs, will that public virtue remain sufficient indefinitely? That is the sobering thought -- the question -- that I would like to leave you with today.

As you go forward in your professional careers, as you raise your families and become established in your communities, remember always the influence an individual can have on the lives of those around him. To shore up our public virtue, you -- as professionals and as citizens -- can make a mighty contribution. We can beat this problem -- but we cannot expect to do so unless we all pitch in. That, in the end, is what community is about. That is what civic virtue is all about.

Thank you very much.

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